

REMARKS

Please cancel Claims 3, 16 and 29 without prejudice. New Claims 37-38 are added. Claims 1-2, 4-15, 17-28 and 30-38 are pending.

Claims 1, 7, 10-11, 21, 27, 33 and 36 are amended herein. No new matter is added as a result of the claim amendments. Support for the claim amendments can be found at least on page 12 (lines 27-28), page 17 (lines 4-10), and page 19 (lines 19-23) of the instant application.

Statement of Common Ownership

The Examiner is respectfully directed to MPEP § 706.02(I)(1) and MPEP § 706.02(I)(2).

The instant application with Serial No. 10/688,148 and the cited prior art reference U.S. Patent No. 6,853,398 (Malzbender et al.; hereinafter "Malzbender") were, at the time the invention of the instant application was made, subject to an obligation of assignment to the same assignee.

Hence, Malzbender is disqualified under 35 U.S.C. § 103(c) as prior art in a rejection under 35 U.S.C. § 103(a).

Double Patenting

The instant Office Action states that Claims 1-2, 4-15, 17-28 and 30-36 are rejected under the judicially created doctrine of obviousness-type double patenting over Claims 1-42 of Malzbender.

Applicants respectfully submit that, because of the claim amendments submitted herein, the basis for the double patenting rejection of Claims 1-2, 4-15, 17-28 and 30-36 is traversed.

102 Rejections

The instant Office Action states that Claims 1-2, 4-15, 17-19, 21-28 and 30-36 are rejected under 35 U.S.C. § 102(e) as being anticipated by Malzbender.

The Applicants have reviewed the cited reference and respectfully submit that the present invention as recited in Claims 1-2, 4-15, 17-19, 21-28 and 30-36 is not anticipated nor rendered obvious by Malzbender.

Applicants respectfully submit that Malzbender does not show or suggest "wherein said new view synthesis technique comprises an image-based visual hull technique that comprises approximating a visual hull of said local participant by projecting contours associated with said local participant into three-dimensional space and computing an intersection of resulting frusta" as recited in independent Claims 1, 11, 21 and 27.

Column 6, lines 30-41, of Malzbender is cited as showing this limitation. Applicants respectfully submit that, at best, the cited portion of Malzbender appears only to describe how to build a background model that may be used for contour extraction, a process also described on page 13, lines 9-18, of the instant application. As recited in the claims, the contours are subsequently used by the image-based visual hull technique. According to Malzbender, the outputs

of a contour extraction module 120 are input to a new view synthesis module 150. However, Malzbender does not show or suggest that the new view synthesis module utilizes an image-based visual hull technique, as claimed.

Therefore, Applicants respectfully submit that Claims 1, 11, 21 and 27 are patentable over Malzbender. Because Claims 2, 4-10, 12-15, 17-19, 22-26, 28 and 30-36 depend from Claim 1, 11, 21 or 27 and contain additional limitations, these claims are also considered patentable over Malzbender.

Consequently, Applicants respectfully submit that the basis for rejecting Claims 1-2, 4-15, 17-19, 21-28 and 30-36 under 35 U.S.C. § 102(e) is traversed.

103 Rejections

The instant Office Action states that Claim 20 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Malzbender. As mentioned above, Malzbender is disqualified under 35 U.S.C. § 103(c) as prior art in a rejection under 35 U.S.C. § 103(a). Hence, the basis for rejecting Claim 20 under 35 U.S.C. § 103(a) is traversed.

Conclusions

In light of the above remarks, Applicants respectfully request reconsideration of the rejected claims.

Based on the arguments presented above, Applicants respectfully assert that Claims 1-2, 4-15, 17-28 and 30-36, as well as new Claims 37-38, overcome

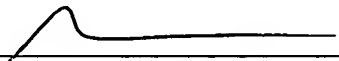
the rejections of record, and therefore Applicants respectfully solicit allowance of these claims.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

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